IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE FOURTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

**THE HONOURABLE SRI JUSTICE V.V.S.RAO**

WRIT PETITION NO.13687 of 2004

Between:

Balthu Venkata Durga Rao, S/o.Kotaiah, 38 years,
Prop.Sri Durga Saw Mill, Ramakrishnapuram, Vijayawada-3.

**...PETITIONER**

AND

1. The Principal Secretary, Government of Andhra Pradesh, Forest Department, Secretariat, Hyderabad.

2. The Divisional Forest Officer, Krishna Division, Vijayawada.

**...RESPONDENTS**

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ order direction more particularly one in the nature of Writ of Mandamus declaring that the action of the 2nd respondent in attaching the machinery of Sri Durga Saw Mill of the petitioner and preventing him from carrying on business in the said saw Mill by not considering representation dated 18.06.2004 given to the 2nd respondent for grant of grant of license is illegal, arbitrary, void and violative of Articles 14 19 (1)(g) 21 and 300A of Constitution of India and without following rules and procedure established under law and violative of principles of natural justice and consequently direct the respondent to permit the petitioner to run his business of Sri Durga Saw Mill Ramakrishnapuram, Vijayawada in the interest of justice.

**Counsel for the Petitioner: MR.P.ANAND SESHU**

**Counsel for the Respondents: GP FOR FORESTS**

The Court at the admission stage made the following:

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**ORDER:**

The petitioner is allegedly running a saw mill in the name and style as Sri Durga Saw Mill since 1984. On 07.06.2004, the second respondent considered the report of the forest Range Officer and also the records and came to a conclusion that the petitioner's saw mill was being run without proper license in contravention of the provisions of the A.P.Forest Act, 1967 ('the Act' for brevity) and the A.P.Saw Mills (Regulation) Rules, 1969 ('the Rules' for brevity). For that reason, while issuing show cause notice, the petitioner was required to make a written representation within seven (7) days, as to why the entire plant with machinery, implements and produce should not be seized and confiscated to the government. Subsequently on 20.07.2004, the first respondent visited the premises of the petitioner and seized the machinery under cover of a panchanama. The petitioner submitted a representation on 18.06.2004 requesting the second respondent to revoke the show cause notice and also requested for grant of license. Alleging that the representation of the petitioner has not been disposed of, the petitioner filed the present Writ Petition. The petitioner also seeks a consequential relief directing the respondents to permit him to run his business in Sri Durga Saw Mills, Ramakrishnapuram, Vijayawada.

I have heard the learned counsel for the petitioner and learned Assistant Government Pleader for Forests. Under the Rules, no person shall erect or operate a saw mill for cutting, converting or sawing the timber without license. Section 2 (e) of the Act defines a forest offence as to mean an offence punishable under the Act or any rule made under the Act. Running a saw mill without proper license is an offence and therefore, it is always permissible for the second respondent to take action as per the provisions of the Act and the Rules including the cancellation of license if any. Under Rule 9 (2) (a) of the Rules, it shall be competent for the Divisional Forest Officer to seize and confiscate forest produce together with whole or portion of the plant, machinery, implements and equipments, which have been used for the commission of offence. Therefore, I do not see any illegality in the action of the second respondent seizing plant and machinery of the petitioner's saw mill. The action initiated pursuant to the show cause notice dated 17.06.2004, is allegedly pending before the second respondent and therefore, the matter shall be disposed of expeditiously after considering the representation of the petitioner dated 18.06.2004 in accordance with law. In this Writ Petition, no relief can be granted permitting the petitioner to run the saw mill, which would be issuing a Mandamus contrary to law.

The Writ Petition, with the above observations, is dismissed.

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**(V.V.S.RAO, J)**

4th August 2004

RRB

Copy To:

1. The Principal Secretary, Government of Andhra Pradesh, Forest Department, Secretariat, Hyderabad.

2. The Divisional Forest Officer, Krishna Division, Vijayawada.

3. Two CCs to G.P. for Forests, High Court Buildings, Hyderabad (OUT).

4. Two CD copies.